X

THE PROVISIONAL GOVERNMENT OF MARYLAND (1774-1777)

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X

THE PROVISIONAL GOVERNMENT OF MARYLAND (1774-1777)

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THE PROVISIONAL GOVERNMENT OF MARYLAND.

The form of government which the Lord Proprietor had established in the Province of Maryland, and to which it had been almost[1] continuously subject since its foundation in 1634, came to an end in the early struggles of the Revolution. After a comparatively short interval, a new constitution was drawn up and adopted, and the new government of the State was put in the place of the old Proprietary government. But the one did not abruptly end, nor the other abruptly begin. The powers of the Proprietary government were only gradually forced into disuse, to be as gradually assumed by another, rising Authority, which eventually established and, in its turn, gave way before the new State government. It is the history of the government of the Province during this transitional period, or of what is known as the Provisional Government of Maryland, that this paper is designed to study. It proposes to trace the powers of that Government in their rise, growth, and exercise, from the first expression of the popular will, in the Conventions of 1774, in organized resistance to the importation of the taxable articles of commerce, through successive Conventions, to the assumption of complete sovereignty in establishing and inaugurating a more permanent and fully

[1] During the years 1652 to 1657 and 1691 to 1715, the political overlordship of the Proprietor was exchanged for that of the Protector and the Crown, respectively.

organized form of authority in the new State government of 1777. The thread of interest running through the whole is the gradual assumption of sovereign powers by the people in Convention until they found themselves the sole Power in the Province. This may be marked off in three stages: first, the tentative assertion of certain rights and the imperfect and undeveloped executive organization of the first year, beginning with the first Convention of 1774; secondly, the fuller and bolder assertion of power and the more organized and effective means of execution of the second year; and, finally, the Provincial declaration of independence, the framing of a new constitution, and the setting-up of a new government. In the first period, the new, rising Power struggled to a position of equality with the Proprietary Power, as a second Authority in the Province; in the second, it became the chief Power and overshadowed the old Authority; and, in the third, it cleared the field of its rival and sat supreme, yielding up its existence, finally, to the child of its own begetting.

I.

The Provisional Government, as before suggested, did not spring forth full-fledged, Minerva-like, from the brains of the cleverest statesmen, but was of gradual growth. In its origin, it was nothing more than an association of the freemen of the Province for the purpose of rendering an effective resistance to the encroachments of the English Government and of defending themselves, meanwhile, in the exercise of their rights. Its roots strike down to the non-importation agreement previously entered into for the purpose of commercial opposition, and the organs used in its exercise were the same as those originated by its forerunner. The prototype of the future Convention first appears in the meeting of some of the inhabitants at Annapolis, June 20, 1769, in response to the call of a few merchants for the purpose of pledging themselves to a non-importation agreement, and the organs of the earlier

Provisional Government may first be seen in the central and county committees originated by that meeting to enforce its resolutions. As yet, however, the functions of correspondence and observation were combined in the same committee. In October, 1773, the Provincial Assembly appointed a special committee of correspondence for the whole Province, whose duty was to obtain full and early information as to the doings of the British Parliament, and to communicate with the sister colonies on the subject of defense.

Various causes had, however, contributed to prevent the development of this earlier action until the startling news of the passage of the Boston Port Bill and of the oppression of the people of Boston arrived in May.[1] At once, "a meeting of the principal inhabitants [of Baltimore] was called, and a committee of twelve persons was appointed to correspond with Boston, the neighbouring colonies, and particularly with the towns of the Province, to collect the public sense of this important concern."[2] The committee sent the news on to Annapolis and to the different parts of the Province. Public feeling ran high in sympathy with the oppressed Bostonians,[3] and the counties were not slow to respond. All minds were turned to the revival of the non-importation agreement, and, to this end, a general meeting at Annapolis naturally suggested itself. During the latter part of May and the early part of June, the inhabitants of the counties met at their respective courthouses, or other convenient meeting-places, and passed a series of resolutions[4] recognizing the cause of Boston as the

[1] Samuel Adams transmitted the news, together with a resolution of the Boston town-meeting of May 13th, "that if the other colonies would come into a joint resolution to stop all importations from Great Britain, and every part of the West Indies, till the Act blockading up the harbor be repealed, the same will prove the salvation of North America and her liberties." See Scharf's *Hist. of Md.*, II, 143.

[2] Letter of the Baltimore committee to the Boston committee of June 4th, quoted in Scharf's *Hist. of Md.*, II, 146.

[3] Eddis' *Letters*, May 28, 1774.

[4] For the resolutions of the different county meetings, see the *Maryland Gazette*, June 2, 9, 16, and 30, 1774.

common cause of all the colonists, and the duty of each and all to unite in effectual means to obtain a repeal of the obnoxious Act.[1] To this end, they expressed themselves strongly in favor of a union of all the colonists pledged neither to import to, nor export from, Great Britain any articles of commerce, and they agreed to enter such a Provincial and Continental Association under oath, and to break off all trade and dealings with that colony, county, or town that should refuse to enter such an Association. In order to carry out these resolutions, each county elected a committee to correspond with the other counties and keep themselves informed of the rapid progress of events, and also a committee to represent them in the general meeting of all the county committees soon to be held at Annapolis.

Upon the assembling of these deputies in the first Provincial Convention[2] on June 22, and, after deciding to determine all questions by a majority vote by counties, the letters from Boston, Philadelphia, and Virginia, recently received, and the recent parliamentary bills against the colonies, were laid before them, and, "after mature deliberation," they resolved that the bills in question were "cruel and oppressive invasions" of the natural and constitutional rights of the people of Massachusetts. They reiterated the recent resolutions of the county meetings, endorsed the plan of a non-importation and non-exportation union, and they agreed to enter such a union and to break off all trade and dealings with those who should refuse to join it. They further suggested to the merchants that they ought not to take advantage of the scarcity of goods under the non-importation agreement, soon to be enforced, to raise their prices. They thanked the friends of lib-

[1] "Nothing can be plainer than that the suffering of Boston is in the general cause of America, and that union and mutual confidence is the basis on which our common liberties can only be supported." Letter of the Annapolis committee of correspondence to the Baltimore committee, May 26, 1774.

[2] See *Proceedings of the Conventions of the Province of Maryland*, pp. 3–5.

erty in Great Britain for their patriotic efforts to prevent the present calamity; they resolved to open a subscription in the several counties for the poor of Boston, and they appointed delegates "to attend a general congress of deputies from the colonies, at such time and place as may be agreed on, to effect one general plan of conduct, operating on the commercial connexion of the colonies with the mother country, for the relief of Boston and preservation of American liberty."

Although not the first of its kind, for the meeting of the merchants and freemen in 1769 was for the same purpose, this Convention stands out distinct in its representative character and in the permanent nature of its results. It was attended by ninety-two deputies, many of whom were among the best men of the Province, who had been elected in the usual way by the freemen of the counties and who were, therefore, really representative of the mass of the people. Moreover, it was the only representative assembly in the Province at the time, for the legislative Assembly had been prorogued in the previous March and was not destined to meet again until under a new régime. Though the Proprietary Government was still active in the exercise of its functions, and the people had no desire as yet to overthrow it, it is nevertheless true that the voice of the people, through their representatives in Convention, spoke from the source of sovereign power and, though their resolutions applied only to the regulation of their commerce, they soon made it apparent that they meant to exercise sovereign authority therein. Standing as it did at the beginning of a long line of similar Conventions, each of which was to exhibit the people in the exercise of a larger degree of sovereign power, it may be looked upon as embodying the nucleus of the Provisional Government.

Events soon occurred to try the value of these resolutions. In August, the brigantine *Mary and Jane* arrived in the harbor of St. Mary's river with some chests of tea, consigned to merchants in Bladensburg and Georgetown. The Frederick county committee called a meeting of the freemen, and re-

quested the consignees of the tea to be present. Upon which occasion, it was resolved that such an importation of "the detestable plant" was dangerous to the liberties of the colonists, in that it assented to the claim of the British Parliament to tax them, and, in order to prevent the pernicious practise of further importations of the kind, the vessel, with its tea, was ordered and compelled to sail back to England.[1] A more notable instance of the same kind occurred in October, on the arrival of the brig *Peggy Stewart* at Annapolis, with tea on board, when the owner of the vessel, although not the consignee of the tea, and a member of the Non-Importation Association, paid the duty on it. A general meeting of the citizens censured the proceeding, and a larger meeting of county delegates was called to consider the matter. Mr. Stewart, the owner of the vessel, published an apology, and offered to burn the tea publicly to appease the people's wrath. Nothing was done, however, until the larger meeting assembled, when considerable animosity was manifested toward him and the owner of the tea, and they were made to present themselves and sign a humiliating paper. But, upon the question being put, "Whether the vessel should be destroyed?", it was decided in the negative by a considerable majority. Yet Mr. Stewart, "from an anxious desire to preserve the public tranquillity, as well as to ensure his own personal safety," went on board, run the vessel aground, and, in view of all the people, set fire to it with his own hands and let it burn to the water's edge.[2]

Meanwhile, all eyes were turned on the Continental Congress, in session from September 5 to October 26 at Philadelphia. The deputies from twelve colonies there signed certain Articles of Association, pledging their colonies not to import any articles of commerce whatsoever from Great Britain and Ireland after the first day of the next December, to discontinue any exportation thither after September 10, 1775,

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[1] *Maryland Gazette*, August 11 and 18, 1774.

[2] *Md. Gazette*, Oct. 20 and 27, 1774. Eddis' *Letters*, Oct. 26, 1774.

and to break off dealings with that colony which should not join the Association or should violate its Articles.[1]

Shortly after the close of Congress, in the early part of November and in response to its direct suggestion, the freemen of the counties qualified to vote for representatives to the Assembly, met at their respective courthouses and appointed a committee "to observe the conduct of all persons touching this Association" and to carry its Articles into effect; also a committee of correspondence, frequently to "inspect the entries of their custom-houses, and inform each other, from time to time, of the true state thereof, and of every other material circumstance that may occur relative to this Association."[2] Deputies to the next Provincial Convention were also appointed.

In response to the call[3] of the Congressional delegates of the Province, fifty-seven deputies from the counties attended the new Convention, which met on November 21st. The proceedings of Congress were laid before them and unanimously approved of, and it was resolved that "every person in the Province ought, strictly and inviolably to observe, and carry into execution, the association agreed on by the said Continental Congress." But, from the want of sufficient notice, several counties were not fully represented, and an adjournment was ordered to December 8th, when "matters of very great importance" were to be taken into consideration.[4]

Eighty-five deputies, a goodly representation of the people, were present at this adjourned meeting.[5] The chief business

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[1] *Journals of the American Congress*, Oct. 20, 1774.

[2] *Journals of Congress*, Oct. 20, 1774.

We see here, for the first time, the differentiation of the powers of the original committee in the formation of two, one of correspondence and one of observation, and we note the fact that this was done at the suggestion of the Continental Congress. It is important to emphasize the formation of these committees, for they were to be the organs through which the Provisional Government was to exercise its authority in the several counties.

[3] *Md. Gazette*, Nov. 3, 1774.

[4] *Proceedings of the Conventions of the Province of Maryland*, p. 6.

[5] *Ibid.*, pp. 7–10.

before them was the confirmation of the resolutions of the Continental Congress, relative to the non-importation and non-exportation of articles of commerce, and the passage of certain resolutions providing for their enforcement. They, therefore, first of all, reiterated the previously expressed approval of the resolutions of Congress, they thanked their delegates for the faithful discharge of their important trust, and resolved strictly to obey and carry out the Association. Following the lead of Congress, they endeavored to encourage the home manufacture of woolens, linens and cottons, by resolving that no lambs dropped before the first day of each May, or other sheep under four years of age, ought to be killed; "that every planter and farmer ought to raise as much flax, hemp and cotton as he conveniently can," and that no flax-seed of the present year's growth ought to be exported. The resolution of the previous Convention, recommending merchants not to take advantage of the scarcity of goods to sell their wares at a much advanced price, having been disregarded, they felt called upon to fix the percentage by which such advance price should be regulated, and they delivered themselves, at the same time, against the practice of engrossing merchandise. They resolved that, in all cases where the county committee declared a breach of these resolutions, no gentlemen of the law ought to prosecute a suit in favor of the offender; they recommended to the people to acquiesce in, and observe the determinations of, the several county committees; they besought them to put away "all former differences about religion or politics, and all private animosities and quarrels of every kind," and cordially unite in defense of the common rights and liberties. A general committee of correspondence for the whole Province was appointed, and the other colonies were recommended to enter into similar resolutions for mutual defense and protection. But, perhaps, the most noteworthy feature of their proceedings was the resolution to support to their utmost any colony in which "the assumed power of parliament to tax the colonies shall be attempted to be carried into execution by force," and

their determination to raise a Provincial militia. Feeling, as they said, that a well-regulated militia is the natural strength and only stable security of a free government, and that it would relieve the mother country from any expense in their protection, and obviate the pretence of taxing them on that account; they recommended to all the inhabitants of the Province, who were between sixteen and fifty years of age, to form themselves into companies, choose officers, provide themselves with arms and ammunition, "use their utmost endeavors to make themselves masters of the military exercise," "and be in readiness to act in any emergency." Moreover, knowing the need of money for the purchase of arms and ammunition, they authorized the county committees to raise the sum of ten thousand pounds, in sums apportioned to each county according to its population, in the way they should each best see fit. Finally, the Convention appointed delegates to the next general Congress, giving them "full and ample power to consent and agree to all measures which such Congress shall deem necessary and effectual to obtain a redress of American grievances;" it called a new Convention to meet April 24th, of the next year, and directed the several counties to choose deputies for the same.

If, in the Convention of the previous June, we saw the germ of the Provisional Government in the meeting of the freemen of the Province in Convention, exercising in their sovereign capacity the right to regulate their commerce by passing a series of resolutions recommending the formation of a commercial non-intercourse Association of the colonies against Great Britain, we here note its great development in the solemn entrance into that Association by the Convention, and the formation of the committees of observation and correspondence, as the organs through which the will of the people was to operate in the several counties. But, besides this advance from the former resolution of readiness to enter such an Association to the present formal participation in it, and the formation of organs through which to work, the people

in this Convention took a long step forward in the assertion of sovereign power by their militia regulations, which, as Mr. Bancroft says, "took the sword out of the hands of the Governor, to whom all military appointments had belonged," and gave it into the hands of the people.[1] They had up to this point, therefore, made a partial use of the sovereign powers of the regulation of their commerce and of the raising of a military force for the warlike defense of their liberties, and they had, moreover, partially created an organization through which their will should be enforced. The Provisional Government appears at this stage as no longer in the germ, but as partly developed. As yet, however, the resolves of the Convention were in the form of recommendations, the execution of which depended upon an approving public sentiment. To it constant appeals were made, and nothing was done without its direction and authority.

Soon after the close of the Convention, and in response to its recommendations, the freemen of the several counties met to carry out the organization of defense. They unanimously approved of the proceedings of the Continental Congress and of the late Provincial Convention, and resolved that the terms of the Continental Association, lately entered into, should be strictly and inviolably observed and executed. They appointed persons to offer the subscription-paper for the money to be raised for the purchase of arms and ammuuition to every freeman, and to make returns of the subscriptions, together with the names of those who had refused to subscribe, to the end "that their names and refusal may be recorded in perpetual memory of their principles."[2] Deputies were appointed to the next Convention, and the organization of the committees of observation and correspondence were completed.[3] The people be-

[1] Bancroft, *American Revolution*, 1, 207.

[2] For example, see proceedings of the Charles County meeting, *Md. Gazette*, Jan. 19, 1775.

[3] For proceedings of the County meetings, see *Md. Gazette*, Dec. 29, 1774, Jan. 5, 19, 26, Feb. 2, and 9, 1775.

stirred themselves also in carrying out the militia recommendations of the Convention. Almost at once, two companies were formed in Annapolis,[1] to be followed soon after by the formation of other companies in different parts of the Province.[2] There was visible everywhere the spirit of determined opposition and the preparation for a military defense.[3] Moreover, the committees of observation and correspondence, having been fully organized, now set to work to enforce the Articles of the Non-Importation Association, which went into effect on the first of December. Numerous instances occur in the columns of the *Maryland Gazette* of their effective action. In those cases in which goods had been imported from Great Britain after December 1, they sold them at public auction, according to Article X of the Continental Association, and, after imbursing the owner for their cost, forwarded the profit as a contribution to the poor and needy sufferers of Boston;[4] in case such goods had arrived after February 1, 1775, they were not allowed to land, but were sent back to England.[5] Where anyone tried to import tea, not only was it not allowed to land, but the importer was called before the committee and obliged to apologize publicly for his daring.[6] Merchants who tried to sell their goods at a great advance over the cost price, thus taking advantage of the scarcity of goods and making the means of subsistence hard to obtain, fell under their censure.[7] Moreover, those who publicly disparaged the means taken to defend the people's rights, and branded them as treasonable, were brought before them, severely censured, and forced to disavow or apologize for their rash words.[8] The committees were thus a real power in the counties.

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[1] *Md. Gazette*, Dec. 22, 1774.
[2] *Md. Gazette*, Jan. 5, 12, and 19, 1775.
[3] Eddis' *Letters*, March 13, 1775.
[4] *Md. Gazette*, Dec. 15, 1774, Jan. 5, Feb. 23, March 2, 1775.
[5] *Md. Gazette*, April 6, 1775.
[6] *Md. Gazette*, Jan. 12, Feb. 2, 1775.
[7] *Md. Gazette*, April 13, 1775.
[8] *Md. Gazette*, Jan. 26, 1775.

On the 24th of April, 1775, a new Convention of one hundred members assembled at Annapolis.[1] First of all, they proclaimed their allegiance to the King "as the sovereign, constitutional guardian, and protector of the rights and liberties of all his subjects." Then, on hearing of the coming of the British troops to New York, they expressed their great alarm and deep concern for that Colony, and endeavored to inform themselves as to what was expected of them under the circumstances. They resolved to stop all exportations to British North America until further orders from the Continental Congress; they earnestly recommended to the people of Maryland to continue the forming and exercising of the militia throughout the Province, as directed by the last Convention, and to complete and apply the subscriptions for the purpose of providing arms and ammunition. They re-appointed their former delegates to Congress, and directed them "not to proceed to the last extremity, unless in their judgments they shall be convinced that such measure is indispensably necessary for the safety and preservation of our lives and privileges," remembering that they have "nothing so much at heart as a happy reconciliation of the differences between the mother country and the British Colonies in North America, upon a firm basis of constitutional freedom," and they pledged the Province, so far as was in their power, to carry into execution such measures as shall be agreed on and recommended by the general Congress. They "recommended to all ranks and denominations of people, to use their utmost endeavors to preserve peace and good order throughout this province"; and, in consequence of the distressed state of the colonies, they set apart May 11th as a day of public fasting and humiliation. They sent a committee to the Governor to ask for the delivery of the Provincial arms and ammunition into their hands, fearing, as they said, an uprising of the slaves in the disturbed

[1] See *Proceedings of the Conventions*, p. 11–16.

state of affairs,[1] or "that some ship of war may arrive in the harbor of Annapolis, whose commander might probably have instructions to seize"[2] them. The Governor, upon the advice of his Council, agreed to commit the care of the arms to such gentlemen of the militia as he himself had appointed, and, on the regular application the next day of the militia colonels of four counties, under the militia act of the Province, he handed over to them about one hundred stand of arms, thus yielding to the popularly-constituted authority under the guise of constitutional form.

This was the first point of friction of the newly-constituted authority with the old régime. The commercial and warlike opposition inaugurated by the previous Conventions, and by the operations of the county committees, and by the formation of the militia had not been considered repugnant to the oaths of allegiance, and there was no thought nor desire as yet, nor for a long time to come, to break the bonds of union with the mother country.[3] The people were still loyal in a true sense to the King and the Lord Proprietor, and meant to do nothing more than defend themselves in the exercise of their cherished rights. The importance of this friction with the Governor, therefore, was in its forecast, that, while not wishing to interfere in the administration of their Chief Magistrate, they were yet determined in any case of need to assert their real superior sovereignty.

During the next three months of May, June and July, events went on accumulating, winning over most men's minds to realize the need of a thoroughly organized and decisive defense. The alarming news of the first shedding of blood at Lexington and Concord, and of the battle of Bunker-Hill, two months later, made ardent patriots of many former luke-warm

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[1] Letter of Gov. Eden to his brother, April 28, 1775, in Scharf's *Hist. of Md.*, II, 179.

[2] Eddis' *Letters*, April 27 and 28, 1775.

[3] Proceedings of the meeting of the inhabitants of Baltimore county, Jan. 16, 1775, in *Md. Gazette*, Jan. 26, 1775.

sympathizers, and clearly and firmly drew the line of distinction between Loyalists and Patriots. On May 26th, Congress recommended to the colonies to put themselves in the best state of defense immediately, and, on June 14th, made a call upon Maryland for two companies of riflemen to join the forces at Boston. The Frederick county committee hastened to raise the companies and started them off by the middle of July. A continental army had now been constituted, with proper rules and regulations, and a commander-in-chief appointed; two million dollars had been issued in continental currency, and the colonies had been recommended to choose treasurers and make provision for sinking their proportion of the new bills.

To take these matters into consideration and to make necessary provision therefor, the Maryland delegates to Congress, under the authority granted to them by the last Convention, called the deputies from the several counties in the Province, to meet in a new Convention at Annapolis on July 26th following.

II.

With the assembling of this Convention, which was more fully representative of the people than any hitherto held, being attended by one hundred and forty-one deputies, and which came after actual hostilities had broken out, showing the extent to which things must go before the adjustment of difficulties with the mother country, a new epoch begins in the relations of the people to the Proprietary Government. Already, the Governor had seen the rise of a new Power in the Province, and had noted with increasing alarm its rising importance. But the Proprietary Government was still the permanent form of authority and its civil power was still unchallenged. The people had but risen in defense of their liberties against the aggressions of the English Government, and, although they had asserted the right to regulate their commerce and to form a militia in their defense, the Governor

sat secure in the exercise of all the other of his powers. This Convention, however, was to encroach on his civil power and to inaugurate measures which were gradually to overthrow it altogether and drive him out of the Province. It is necessary, therefore, to study its doings in some detail.

The more important matters for consideration were put immediately into the hands of committees.[1] While awaiting their reports, the Convention took into consideration certain petitions from those who had fallen under the censure of the county committees for breaches of the Continental and Provincial Resolves. They thus became a supreme court of appeal, from the judgment of the county committees of observation in such matters, and, within these bounds, exercised unlimited authority. As seemed best to them, they heeded the petitioner's desire and ameliorated the sentence given by the county committee on the ground of its being too severe,[2] or they completely set it aside as not having been founded on fact,[3] or they upheld it and rejected the petition of the complainant.[4] In one case,[5] they were appealed to by a citizen who, having gone security for the appearance of another and having allowed him to escape, feared that injury would be done his person and property; whereupon they expressed their desire that all persons should refrain from all manner of violence to that person or his property, and they empowered the committee of his county to inquire into the matter, and report whether there had been any collusion between the one

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[1] Committees were appointed to consider the ways and means to put the Province in the best state of defense, to inquire into the practicability and expense of establishing manufactories of arms, and to consider of the way to lay such restrictions upon the courts of law as may be necessary and expedient. See Proceedings of the Convention for July 27, 29, and Aug. 2, 1775.

[2] Maryland Archives, Journal of the Convention, July 28, and Aug. 12, 1775.

[3] Maryland Archives, Journal of the Convention, Aug. 3, 1775.

[4] *Ibid.*, Aug. 12, 1775.

[5] *Ibid.*, Aug. 14, 1775.

who had given the security and the one who had absconded. Being "strongly impressed with an idea of the confusion and disorder which must inevitably ensue, and the disunion which must necessarily follow, from the people at large being collected and inflicting punishments before a cool and temperate investigation of the case, and consequently the injury which may be thereby done to the common cause of Liberty," they took occasion to express the hope that "the virtue of the people, and their attachment to the liberties of America, will guard them against the commission of the excess apprehended." In another case,[1] where certain charges had been preferred by the Baltimore county committee against Robert Christie, Sheriff of Baltimore county, based on an intercepted letter, in which the said Christie represented the inhabitants of Baltimore as engaged in treasonable and rebellious measures, and suggested that a few British soldiers would keep them very quiet, the Convention resolved that the said Christie had shown a spirit inimical to the rights and liberties of America and ought to be considered an enemy to the country, and that no one ought to have any dealings with him except to furnish him with necessaries and provisions. They also banished him from the Province, ordering him, meanwhile, to place in the Treasurer's hands the sum of £500 sterling, as his proportion of the charges and expenses incurred in the defense of America. These acts mark a new departure in the Convention's exercise of power. Hitherto, the committees of observation had used a police power in the enforcement of the non-importation agreements, but now, for the first time, we see that power used by the Convention to quiet the people and preserve public peace and order, and to banish a political offender and confiscate a portion of his goods. The Governor still had his sheriffs and magistrates, but they were now afraid to exercise their functions against the people, and the Convention found itself

[1] Md. Archives, Journal of the Convention, Aug. 7, 1775.

occupying their place as supreme arbiter and preserver of the public peace.

The committee appointed to consider the means of putting the Province in the best state of defense, reported in favor of the formal association of the freemen, as a first measure. Every freeman was to be urged to sign a document, prepared by the committee for the purpose. The document rehearsed the people's grievances against the English Government, the chief of which were the determined purpose of the latter to tax the colonists without their consent, to alter their Charters and Constitutions at will, and to subdue them by military force. It recited the course of the Continental Congress with reference to these facts, and the suggestion of the Congress to the colonies to put themselves in the best state of defense. In signing this document, the freemen solemnly pledged themselves, to one another and to America, to unite in approving the armed opposition of the colonists to the British troops, being firmly persuaded of the necessity of repelling force by force. They were also to unite in promoting and supporting, to the utmost of their power, the armed and commercial opposition already begun. Finally, realizing that the energy of the civil government was greatly impaired, they were to unite and associate in the maintenance of good order and the public peace, to support the civil power in the execution of the Laws, so far as was consistent with the plan of opposition, to defend every person from every species of outrage to person or property, and to prevent any punishment from being inflicted on any offenders, other than such as should be adjudged by the Civil Magistrate, Congress, the Convention, the Council of Safety, or county committees of observation. The members of the Convention were the first to sign the Association, and, then, it was ordered to be presented by the county committees of observation to all the freemen within the Province, and a return was to be made to the next Convention of the names of all those who should sign it, and of all those who should refuse to sign it, "to the end that the Convention may take order therein."

This "Association of the Freemen of Maryland" has been spoken of as if it overthrew the Proprietary and inaugurated the Provisional Government,[1] and as if it were the basis and cornerstone of the latter.[2] The impression is given that it was the charter of liberties, so to speak, of the Provisional Government, which, accordingly with it, suddenly sprung into being and overthrew the previous forms of authority. But, as I have tried to show in the foregoing, this new Power grew up only gradually, and had, previous to this time, actually exercised some very important functions of governmental authority. There was also no intention of the people as yet to withdraw their allegiance from the King and the Proprietor, and no desire to throw off the existing forms of control even now. Moreover, this document, although very important, contained little that was new. The freemen simply agreed formally to unite, firstly, in approving the use of force in repelling force; secondly, in promoting the present commercial and armed resistance; and, thirdly, in upholding the power of the Civil Magistrate in preserving order. The Governor's powers were not thus done away; the sheriffs, magistrates, justices, and Provincial officers generally, still held their commissions from him, and there was no attempt to remove them. The only new things in the document were, first, the formal and binding character of its resolves, and, second, the placing of the organs of the new order of things, namely, the Continental Congress, the Convention, the Council of Safety, and the committees of observation, on the same plane of authority with the civil power of the Governor. These Articles of Association did not, therefore, originate the Provisional Government, nor did they exhibit it as having suddenly arisen and overthrown the former Authority. They were not primarily concerned with government at all, but with the union of all the freemen in a commercial and armed defense of their liberties.

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[1] See Scharf, *Hist. of Md.*, II, 183 f.

[2] See McMahon, *Hist. of Md.*, 416.

But, incidentally, they show us the Provisional Government as having emerged from its former state of tentative beginning and as acting, side by side, with the old forms of power, and with at least as much authority.

To carry on the armed resistance, the Convention provided for the purchase and importation of arms and ammunition,[1] for the erection of a powder mill,[2] for the establishment of saltpetre manufactories in different parts of the Province,[3] and for the complete formation and organization of a military force.[4] Forty companies of minute-men were directed to be enrolled, each county being required to furnish its proper quota. All the other able-bodied effective freemen, except clergymen, physicians, those of the Governor's household, and such as objected on religious scruples, were directed to enrol themselves as soon as possible in some company of militia, and swear an oath of allegiance to the Convention or Council of Safety to march whenever and wherever they should direct. The committees of observation were to appoint enlisting officers, and, as soon as enlisted, the minute-men and militia were to assemble and elect their officers, the names of whom were to be sent to the Convention or the Council of Safety, whereupon commissions were to issue to them. Regulations were made regarding the formation of the companies into battalions, with one company of light infantry to each battalion; rules were made regarding the exercise and conduct of the troops, and the rank of the officers. Finally, the county committees were ordered to make diligent enquiry after, and report the names of all those who should refuse to enrol themselves, according to the resolves of the Convention, and against all such no further proceedings were to be taken but by its future order.

For the purpose of raising and arming the military force, and for encouraging the manufacture of salt-petre and powder,

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[1] Md. Archives, Proceedings of the Convention, Aug. 14, 1775, p. 30.
[2] *Ibid.*, p. 29 f. [3] *Ibid.*, p. 30. [4] *Ibid.*, pp. 16–22.

money was needed, and the Convention, following the lead of Congress, now, for the first time, made use of the power to issue bills of credit.[1] Supervisors were appointed to procure proper plates and paper, and to have bills issued to the amount of 266,666⅔ dollars, each of which bills was to entitle the bearer to receive gold and silver at the rate of four shillings and six pence per dollar. They were to be issued on the credit of the Province, and to be redeemed and sunk on or before January 1, 1786, by taxes or other legislative provision, for which purpose the Convention bound its constituents, and pledged the faith of the Province. Two treasurers were appointed, one for each Shore, to receive and pay out the money, subject to the orders of the Convention and the Council of Safety. Thus a new power of government was made use of by the people in Convention in drawing upon the credit of the Province to issue bills to enable them to carry out their revolutionary measures.

But they were to go still farther and interfere with the operation of the courts of law and virtually direct their proceedings.[2] They resolved that all suits pending, in which there was no real dispute, be settled speedily in some amicable way, and that all suits in which there were real disputes, and which could not be settled amicably, or tried with justice to the parties concerned, be discontinued, during the times of public calamity, until otherwise ordered by a future Act of Assembly or resolve of Convention, and that the future Assembly ought to take measures to bar the Act for the limitation of suits and provide for their reinstatement. They made a further regulation to the effect that where witnesses could not be present at the trial, depositions might be taken before justices of the court and in the presence of the adverse party. But their most important action with reference to this subject was to provide for the election by each committee of observation of a

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[1] Md. Archives, Proceedings of the Convention, Aug. 14, 1775, pp. 24–27.
[2] *Ibid.*, Aug. 14, 1775, pp. 31–33.

committee of seven, from its own number, who were to meet on the first and third Mondays of each month to grant permission for the trial of suits. Certain actions[1] might be commenced or continued without applying for its permission, while in all other cases it must be sought. In certain[2] of these latter cases, the Committee, when applied to, were obliged to give licences to carry on the suit, whereas in other cases[3] they were allowed to use discretionary power. Moreover, judgments which had been obtained since the court terms of the last spring on suits begun in any other way than those above mentioned, were ordered to be stayed of execution. While the Proprietary Courts still exercised their functions, the Convention by this action asserted the power to control them. The licensing committee was its agent, and though certain suits could be begun without licenses, it had decided what such should be, and in all cases had exercised direct restrictive authority. Another stage in its assertion of power is thus marked.

That the orders and regulations of the Convention might be carried into execution, it was felt necessary to provide for the appointment of some executive organ, which should act during its recess. Accordingly such a body was appointed,

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[1] E. g., those "founded in the wrong done to the person or property, such as Ejectment, Trespass, Trover, Replevin, Detinue; also all real Actions; also actions for wards, and for Money or Tobacco actually had and received by one person for the use of another; Attachments under the late Acts of Assembly, and against persons non-resident; actions, or process on Loan Bonds." Md. Archives, Proceedings of the Convention, Aug. 14, 1775, p. 32.

[2] E. g., actions "where debtors refuse to renew their obligations, or other securities, or to give reasonable security, or to liquidate and settle their accounts, and give Promissory notes for the balances, or to refer their disputes, if any, to one or more indifferent persons, or are justly suspected of intention to leave the Province, or defraud their creditors." Md. Archives, Proceedings of the Convention, Aug. 14, 1775, p. 32.

[3] E. g., actions brought "by and against Executors and Administrators, as such, and their securities, and . . . . against Guardians for the recovery of filial portions, or the Rents and profits of orphans' Estates." Md. Archives, Proceedings of the Convention, Aug. 14, 1775, p. 32.

under the name of the Council of Safety, consisting at first[1] of sixteen members, eight from each Shore, whose term of official life was to continue to the close of the next succeeding Convention, then to give place to a newly elected Council. Its chief function was to act as the executive agent of the Convention, but it possessed as well discretionary powers of a very high order. It had control of the military force of the Province, with power to issue commissions, appoint court martials, and displace officers; it could call out the troops whenever and order them wherever it thought best, with the single restriction that it could not order the militia out of the Province nor the minute-men further than the adjoining counties of the neighboring colonies. Moreover, it could do whatever it should see best for the defense and security of the Province; it could issue orders on the Treasurers for the payment of expenses, and could require reports from them as to their doings. It was a sort of high court of appeal, exercising judicial functions upon those cases sent to it by the county committees, involving breaches of the Continental Resolves. These powers, too, could be used in cases of emergency by a majority of the members for either Shore; five men could, thus, at times, exercise supreme control over their respective Shores, but it was recommended that such powers should be exercised by such a few only in cases of great emergency, and that, as soon as possible thereafter, a general meeting of the whole Council be called and the matters laid before it. The Council thus exercised executive and judicial and, on occasion and to a limited degree, legislative functions as well. It drew its powers from the Convention, as the latter, in turn, drew

[1] The number was afterwards changed to nine, five from the Western and four from the Eastern Shore. Though it was originally the idea of the Convention to cause half of the number to retire at each new election, to prevent "any abuse of power from the continuance of authority in the same hands," yet, after the reduction of the number from 16 to 9, the same members were reëlected at each new election, with an insignificant exception or two.

its powers from the people, and each was responsible for the use made of them to its originator. Though, therefore, such extensive powers were placed in such a few hands, they do not seem to have been abused, which fact was due to the excellent character and good sense of those to whom they were committed.

In order to carry out their regulations in the counties, the Convention ordered a reëlection of the committees of observation. They had heretofore, as has been seen, been of great use in putting into effect the non-importation resolutions and in forming the militia. But they had been of a more or less incomplete and temporary nature. Now, it was ordered that they should be elected in each county, varying in number from 53 in Frederick to 14 in Caroline county, by all the freeholders and other freemen "having a visible estate of £40 sterling,"[1] on a set day, the second Tuesday of the next September, and they were to hold office for the year following. Their duties were to be the same as before: to carry into effect the Continental and Provincial resolutions; to keep a sharp lookout for breaches of the same; to call the offenders before them and censure them as they saw fit; and, when they might have probable proof that anyone was guilty of any great offense, such as would tend to disunite the people, they were to cause the arrest of the offender and send him to the Council of Safety for trial. They were, further, to have charge of the correspondence of the county, and to elect from their own number five persons to attend to it; they were also to choose seven of their number to be a committee to license suits. They thus became the real and effective authorities in the counties, and the people were ordered to respect and acquiesce in their determinations.

Before concluding, the Convention appointed delegates to Congress to serve until the next Convention, with "full and

[1] The qualification of those entitled to vote for burgesses under the Proprietary regulations.

ample power to consent and agree to all measures which such Congress shall deem necessary and effectual to obtain a redress of American grievances";[1] it called a new Convention to meet in the next March, and directed each county to elect, in the regular way at its September election, five delegates, with full power to represent and bind the county to the conclusions of the Convention. Finally, it recommended to all the people to "pay the public taxes, and interest money due the Loan office, it being the design of this Convention to prevent oppression and imprisonment of poor Debtors, but not to give any pretence of non-payment to those who are of sufficient ability to pay their just debts,"[2] and, hearing that certain military captains had lent their aid in suppressing a riot in Baltimore county in which a mob had snatched from the sheriff a man imprisoned for debt, and that they had returned the man to the custody of the sheriff, they communicated their approval to the captains, and put on record their intention to support the civil power in the ordinary administration of justice.

In looking at the work of the Convention as a whole, it is impossible not to notice a great advance in its exercise of the powers of government. In fact, the tendency seems to be to magnify its importance unduly, and to see in it the sudden formation of a new Authority, while, as a matter of fact, that Authority had been made use of before. But, while previous Conventions had concerned themselves only with a commercial and armed opposition to the measures of the British Government, this one felt it its duty not only to carry on this opposition to its utmost ability, but, in the overawed state of the Proprietary Government,[3] to provide also for the maintenance of the public peace. To sum up its actions, it had ordered the

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[1] Proceedings of the Convention, Aug. 14, 1775, p. 34.

[2] *Ibid.*, p. 33.

[3] See Eddis' *Letters*, July 25, 1775; also Thomas Johnson's letter of Aug. 18, 1775, to General Gates, quoted in Scharf's *Hist. of Md.*, II, 186.

enlistment of all the people into military companies; it had provided for their organization and control; it had issued bills of credit on the credit of the Province; it had framed Articles of Association, calling upon all to unite in promoting the common cause. To obviate any hindrance to the people in their patriotic efforts, it had assumed a censorship over the courts; it had acted as a supreme court of appeal in all cases involving breaches of the Continental Resolves; and, for the purpose of carrying out its orders, it had established an executive body for the whole Province,[1] and had reformed the executive organs of the counties. It had thus made use of all the functions of government[2]—executive, legislative, and judicial. Yet, in all this, it was but true to its *raison d'être*, that is, to carry on an effective resistance, and, in making use of so many new sovereign powers, it had no intention of overthrowing the Authority that had hitherto exercised them.[3] The people were still loyal to the Powers across the sea, and almost another year was to go by before that loyalty was to be withdrawn. The authority of the Governor and his civil agents, though mainly formal,[4] was still respected and obeyed, but, by these successive assertions of power by the Convention, the Proprietary Government had received a shock from which it was never to recover, and henceforth, in comparison with its past, was more of a shadow than a reality. From this time

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[1] For the Governor's opinion of the Council of Safety, see his letter of August 27, 1775, quoted in Scharf's *Hist. of Md.*, II, 188, as having been written to an English nobleman. I am indebted to Dr. B. C. Steiner for the information, obtained after a careful investigation of the matter, that this letter was really addressed to Lord Dartmouth, Secretary of State for the Colonies, and was the one the answer to which was intercepted, and caused so much trouble in Maryland, and finally the departure of the Governor.

[2] See Eddis' *Letters*, Aug. 24, 1775.

[3] See Address of the Council of Safety to Gov. Eden. Proceedings of the Convention, Md. Archives, p. 72.

[4] See Letter of Thomas Johnson to General Gates, Aug. 18, 1775, quoted in Scharf's *Hist. of Md.*, II, 186.

on, the new government was plainly the chief Power in the Province, but it confined itself to the promotion of defensive measures, leaving still to the old Power many of its functions, and, where necessary, even aiding it and counselling the people to obey it.

Soon after its close, and in accordance with its direction, the people assembled in the various counties and ratified its acts by choosing committees to carry them out,[1] and, though we hear in one instance[2] of strife at the polls, owing to party prejudice, yet, on the whole, the elections passed off quietly, and the people with great unanimity supported the doings of the last Convention. The committees were busy in enforcing the Continental Resolutions; in seeing to the enlistment of the militia; in presenting the Association document to every freeman to sign; in taking a general account of the arms in the counties; and in noting the names of those who refused to enlist and to sign the Association; while the Council of Safety was chiefly engaged in contracting for the manufacture and furnishing of arms and ammunition, and in granting commissions to the military officers. On one occasion, on the rumored approach of the enemy's war vessels, the Council of Safety recommended the public officers of the Proprietary Government at Annapolis to make ready to remove their public documents at a moment's notice, thus subjecting the Proprietary's record officers to their direct control. On the whole, the machinery of the new control worked well and smoothly. We read in Eddis' *Letters*[3] of one instance where some over ardent patriots tried to get a public meeting of the citizens of Annapolis to brand all those who had refused to sign the Association as enemies of America, and tried to have them banished, and such events may have been repeated elsewhere, but they were soon frustrated by the good sober sense of the people, and

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[1] See *Md. Gazette*, Sept. 14, 21, 28, and Oct. 19, 1775.
[2] See Eddis' *Letters*, Sept. 27, 1775.
[3] Eddis' *Letters*, Sept. 27, 1775.

the authority of the Council of Safety was upheld in such matters.

Towards the close of the year, it was felt to be necessary that the people should again assemble in Convention to take measures to put the Province in a better state of defense, and provide for a more complete and compact organization of the military force. Accordingly, at the call of the Council of Safety, the newly elected deputies gathered at Annapolis on December 7. They agreed to change the nature of the military forces somewhat in providing that no further minute-men should be enlisted, and that those already enlisted under the regulation of the last Convention should be paid off, and be disbanded by the first of the next March. On the other hand, every able-bodied freeman between the ages of sixteen and fifty was directed to enrol himself in the militia before that time under penalty of a fine and the delivery of his arms to the committee of observation for his county. All those newly enlisting, as well as those who had previously done so, were to take the oath of allegiance to the Convention and to the Council of Safety. To put the Province in the best state of defense at once, they ordered one battalion of regulars, seven independent companies, and two artillery companies to be immediately raised and put in the public pay, and they proceeded to elect their officers by ballot and issue commissions to them. They divided the Province into five military districts, with a brigadier-general over each; they stationed troops wherever they thought best, and they handed over the direction of them to the Council of Safety. To encourage the making of arms and ammunition, they resolved upon the erection of a gun-lock manufactory at Frederick, of a saltpetre manufactory in each county, to be run under the direction of a specially appointed supervisor, and they decided to carry out the resolve of the last Convention, to erect a powder mill where the saltpetre might be made into powder.

Besides these measures of defense, they resolved to encourage home industry, and advances of certain sums of money were

ordered to certain individuals for the manufacture of linen, for the working of lead veins, and for the building of a rolling, slitting, and sheeting mill. They resolved that the Parliamentary post should be prohibited from travelling in and through the Province, and they enjoined the committees of observation to enforce this regulation. They resolved that no boat belonging to the Province should leave its shores without a license from them or the Council of Safety, or a committee of observation, stating its destination; and if any skipper should go to any other place, unless absolutely necessary, or carry any person or letter, of which due notice should not have been previously given, he and all those accessory to such misbehavior were to be liable to imprisonment.[1] They also issued bills of credit to the amount of 535,111½ dollars, to be redeemed and sunk before January 1, 1786, the former issue to be redeemed by these new bills and then to be destroyed. They laid out a new district in Frederick county, and directed its inhabitants to elect a deputy to the Convention and a committee of observation. They exercised, moreover, the same police power that former conventions had made use of. A deputy who had broken the Continental Resolves was deprived of his seat and a new election was ordered to fill his place; one person, who would not enrol in the militia, and who prevented others from so doing, fell under their censure, and, in general, they exercised the right of sitting in judgment on all actions injurious to the cause of liberty. They manifested their intention of upholding the civil administration of the Proprietary's functionaries in recommending that the taxes assessed by the last Assembly be collected; of disproving of the non-payment of the levies; in offering to aid the officers in collecting them; and in handing over a person charged with misconduct to a civil magistrate, that order might be taken therein according to the due course of the law. The committees of observation were directed to present the "Association" to every freeman who

[1] Proceedings of the Convention, Dec. 12, 1775.

had not yet signed it, and it was ordered that all those who should refuse to do so before April 11 next, should give up their arms or be forcibly disarmed by the committee, who might also, in their discretion, require bond of non-subscribers for good behavior. If they should wish to leave the country, they were to be free to do so and to take their goods with them; but if they should leave their estates behind, these were to be burdened with a share of the common expense. In refractory cases, the committee was given the power to imprison.

This Convention, like its predecessors, made use of all the different powers of government, and yet, at the same time, it permitted and aided the old régime in the exercise of much of its civil power. There was little new in its resolves, but it is especially interesting from the declaration of its attitude to the Crown and Parliament of Great Britain and to the questions of Independence and State Federation, which were then deeply agitating the minds of the colonists.[1] In electing their delegates to the Continental Congress, heretofore, they had usually given them "full and ample power to consent and agree to all measures which such Congress shall deem necessary and effectual to obtain a redress of American grievances."[2] At this time, however, it was felt to be a matter of so much delicacy that a committee was entrusted with the drawing up of a formal detailed document of instructions. The mildness and equity of the English Constitution, to which they owed their blessings of prosperity and happiness, were recalled to mind, and they gave it as their judgment that it was the best known system "calculated to secure the liberty of the subject,

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[1] It is important to value rightly the conservative peace-making influence of Governor Eden in mediating between the English Government and the Patriots in the Province. His judicious but difficult conduct aided greatly in keeping Maryland free from British troops, and in restraining the over-zealous and ultra-radical patriots from forcing Independence before its time. It was during his absence from the Province in the summer of 1774 that the spirit of opposition burst forth in organized resistance.

[2] Proceedings of the Convention, pp. 36, 10, 41.

to guard against despotism on the one hand, and licentiousness on the other." They recommended to their delegates "to keep constantly in view the avowed end and purpose for which these colonies originally associated,—the redress of American grievances, and securing the rights of the colonists." They directed them, in case any proposition should be made by the Crown or Parliament leading to a happy reconciliation on the grounds of constitutional freedom, to do all in their power to further it, and not to assent to any proposition of independence or foreign alliance or colonial federation leading to a separation with the mother country, unless they should deem it absolutely necessary for the preservation of colonial liberties. If such a proposition should be assented to by a majority of the colonies in Congress, their delegates were to call a meeting of the Convention at once, and to know that the Province would not be bound by such an assent except by the vote of its representative body. They were, however, directed to join with the other colonies in all necessary means of defense until the Peace.[1] Moreover, in referring to the King's speech of the last October, and to the responding addresses of Parliament, they left no doubt as to their position. They expressed their strong attachment to the English Constitution and their affection for the House of Hanover, and affirmed, that to be free subjects of the King of Great Britain was, in all its consequences, to be the freest members of any civil society in the known world, and they disclaimed any desire for independence, maintaining that their only motive in taking up arms was to defend their lives and liberties.[2]

The new Council of Safety sat nearly every day, and occasionally, under press of business, on Sunday, busy in carrying out the resolves of the Convention and of Congress. It was chiefly engaged in issuing commissions to militia officers; in arranging for the victualling and clothing of the troops; in

[1] Proceedings of the Convention, Jan. 11, 1776.
[2] *Ibid.*, Jan. 18, 1776.

contracting for the making of arms and ammunition; in issuing orders on the Treasurers to pay subsist and advance money for the support of the troops; in seeing to the fortifications of Baltimore and Annapolis; in issuing instructions and sailing orders to the captains of vessels exporting provisions from the Province; and, in general, in executing measures of defense. It did not hesitate to issue orders to the Proprietor's Commissary and Land officers and to the clerk of the Provincial court at Annapolis, but its directions were by no means arbitrary, and it frequently backed up its acts by reference to the resolves of the Convention.

The business of the courts was going on as previously arranged; the Proprietor's officers were duly executing their functions, and the Governor himself was sitting quietly at Annapolis, greatly respected, and ostensibly possessed of his authority, though he was wise enough to pursue a policy of inactivity and, where possible, to exert his powers for the making of peace. But events were soon to occur which were to make his departure necessary, and thus to loosen greatly the bond which bound the Province to its Proprietor.

In the latter part of March, a certain Alexander Ross, on returning from a visit to Lord Dunmore's fleet, whither he had gone on private matters, was stopped by a Virginia captain of militia, and on his person were found some letters addressed to Governor Eden, more particularly, a circular letter and a private letter from Lord George Germaine.[1] In the most important one, Governor Eden's zeal for the public service, and the unalterable attachment shown by him to the King's person and government, was approved of. A letter from him containing "a great deal of very useful information," and a "confidential communication of the character of Individuals," were spoken of, and he was directed to assist the operations of the British troops in the southern colonies, if they should come near Maryland. The letters were sent im-

[1] Journal and Correspondence of the Council of Safety, April 16, 1776, ff.

mediately to General Lee, commanding the troops in Virginia, and to the Virginia Council of Safety, whereupon the latter body forwarded them to the Baltimore committee of observation, directing it to forward them to Congress. General Lee sent a private letter to Samuel Purviance, the chairman of the Baltimore committee, with whom he was on good terms, directing him to send at once to Annapolis and seize the person and papers of the Governor. The letters reached Baltimore April 14, and the committee not being then in session, Mr. Purviance, on his own responsibility, sent an officer with a few men to Annapolis to seize the Governor secretly, and, at the same time, he forwarded the letters to Congress and wrote an unsigned private letter to President Hancock, in which he spoke of the Council of Safety and Convention as timorous and inactive, and as being afraid to execute the duties of their station. The letters were forwarded also to the Council of Safety, and upon their receipt the Council sent a delegation to the Governor, to show him a copy of the intercepted letters and to request a sight of his letter to Lord Dartmouth of August 27 last, and to ask his parole not to leave the Province until the meeting of the Convention. He replied that he had sent away the copy of the letter, with all his valuable papers, the autumn before, and could not remember the particulars, but observed that they might be convinced there was nothing of a nature unfriendly to the peace of the Province in it, because the troops going to the southward had not been ordered to Maryland. "He asserted also upon his honour that he had not endeavoured to enflame the ministry by traducing the characters of individuals." On being asked to give his parole that he would not leave the Province till the meeting of the Convention, the Governor complained of being unjustly suspected; gave them his letters from William Eden, Esquire, his brother and one of the under secretaries of State, also one from Lord Dartmouth, and desired time until the next day to give his answer. At the set time, he refused to give his parole, holding it impossible so long as he should act

as Governor to become a prisoner at large in his Province. But, he told them that he had no intention of leaving, so long as his stay would tend to preserve the public tranquillity. This was taken as his parole in effect, and the committee thanked him for his resolution to remain, and expressed their hope that he would not regard their action as an insult or indignity. On the next day, the Council received an earnest request from Congress to seize both him and Ross and their papers, and to send such as related to the American Dispute to it without delay. This they considered as uncalled-for interference with their internal affairs and naturally resented. They replied that they had already taken such measures as were competent in their judgment to the occasion; that they were not convinced that the Governor had carried on any dangerous correspondence, and that they considered the seizure and imprisonment of the head of the civil government a measure of too much delicacy and magnitude to be adopted without calling and consulting the Convention.[1] They were, moreover, greatly incensed at the anonymous letter of Purviance to President Hancock traducing them, and at the fact that the Congress would not let them have it to use against the writer. They "considered the authority of the whole Province trampled upon and insulted,"[2] and they called a Convention for May 7 to take the matter into consideration. Meanwhile, being suspicious of the plan concerted by General Lee and Samuel Purviance, they decided to investigate matters thoroughly, and accordingly summoned Purviance and other members of the Baltimore committee to appear before them, with all the papers and proceedings of the committee relative to the intercepted letters. On which occasion, they questioned them at length and in detail,[3] and were disgusted with Purviance's answers.[4]

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[1] Journal and Correspondence of the Council of Safety, April 18 and 19, 1776.

[2] *Ibid.*, April 19, 1776.

[3] *Ibid.*, April 24, 1776.

[4] *Ibid.*, April 25, 1776.

He was obliged to enter into a recognizance for the sum of £500 for his appearance before the next Convention.

On the meeting of that Convention,[1] on May 8, the Council of Safety laid all their proceedings relative to Purviance and the Eden affair before it, and sought its approval of their actions. A committee inquired into the Purviance affair and found him guilty of the three charges: of usurping a power to direct the operations of the military force, at a time when the Council of Safety, to whom such power solely and properly belonged, was sitting, and might, without inconvenience, have been applied to; of having given instructions to seize the Governor under color of his office as Chairman of the Baltimore committee, and as if at its request, whereas it was not consulted nor acquainted therewith; and, finally, of having written and spoken derogatively of the Convention and Council of Safety.[2] The Convention saw in his actions the influence of General Lee meddling in the affairs of the Province,[3] and, while greatly resenting this outside interference, they resolved to let Purviance off with a severe reprimand,[4] in which their indignation at the real author of his actions was made plain.

The Eden affair was considered in committee of the whole for several days. Finally, the course pursued by the Council of Safety was approved of, and no evidence was found of the Governor having held an unfriendly or injurious correspondence with the Ministry as regarded America. But, since it appeared from the intercepted letters that an expedition was to be sent to the southern colonies, which might have important consequences to Maryland, and since the Governor had been directed to assist it, and must, if he should remain in the exercise of his power, execute the instructions of the Ministry, and, moreover, since the powers of government, in the absence of the Governor, would devolve on the President of his Coun-

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[1] Proceedings of the Convention, pp. 125–162, May 8–May 25, 1776.
[2] *Ibid.*, May 10, 1776. [3] *Ibid.*, May 22, 1776.
[4] Proceedings of the Convention, May 22, 1776.

cil, and thus the established form of government would not be dissolved or suspended by his departure, it was decided to signify to him that the public quiet and safety required his departure and that he should have full liberty to depart peaceably with his effects.[1] A complimentary address was drawn up and sent to him at the hands of a committee, expressing their appreciation of his conduct, their wishes for his return to the government of the Province at the conclusion of peace, and their hope that he would, upon his arrival in England, represent their temper and principles with the same candor that he had ever shown in his attempts at reconciliation.

Besides exercising the same executive, police, and judicial powers as those exercised by previous Conventions, this one took a step or two forward. It gave to the Council of Safety authority to subpœna witnesses when necessary, and to compel their attendance under penalty of fine and imprisonment. Owing to the marine warfare, which had begun under the direction of Congress and had grown to large proportions, they established a new court of admiralty. Because sundry officers appointed to maintain peace and order objected to take the oaths to the Proprietary Government, they resolved to dispense with them, and directed the officers to take simply the oaths of their office without fear of any penalties. Because the people who had taken up arms in defense of their rights and liberties could not, with sincerity and devotion, pray for the success of His Majesty's arms, they directed that every prayer for the King found in the Book of Common Prayer, except the second collect in the communion service,[2] be omitted in all churches and chapels until the end of the unhappy differences.[3] Finally, in reply to the resolution of Congress recommending them to form a permanent government representative of the

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[1] *Ibid.*, May 24, 1776. On this motion the vote stood 36 to 19.

[2] This is especially important as marking the Convention's exercise of authority over the Established Church.

[3] Proceedings of the Convention, May 25, 1776.

people, they said that they had the sole and exclusive right of regulating their internal affairs, that they would continue as heretofore to act with cheerfulness and alacrity in the common cause, and, if necessary, that they would enter into a further compact with the other colonies to do so, but that they did not think it necessary that every kind of authority under the Crown should be totally suppressed and all powers of government exerted under the authority of the people. In accordance with this sentiment, they renewed, to their newly reëlected delegates to Congress, their instructions of the previous January.

On reviewing the events and results of the year about ending with this Convention, one is struck by the great advance made by the people in the acquisition of the powers of government and, at the same time, by the conservative use made of them. At the beginning of the period, the power of the people in Convention was just beginning to assert itself in a proposed commercial and armed opposition, and the Governor's power was then little diminished. But that year saw the people's authority rise first to a position of equality and then to one of actual superiority, and finally drive the acknowledged head of the old régime out of the Province. A thoroughly competent Provisional Government of defense had grown up, a large military force had been raised and organized, the civil government had been encroached upon, and many of the bonds which bound the Province to the mother country had been loosened, but, withal, the progress had been cautious and only such as was necessary for the defense of the people's liberties. There was a great hesitation about taking the final step. As yet the people were not ready for it, and even the departure of the Governor[1] was looked upon as only temporary. But events were not long in bringing about the final severance of all political ties with England. To declare their colonial in-

[1] The President of the Council remained as his representative, and the Magistrates, Justices, and Sheriffs still held their commissions from him.

dependence and to set up a new State government was the last act in the drama of the Provisional Government.

III.

The people of Maryland were very slow, as has been seen, in making up their minds to declare their independence of Great Britain. The great amount of freedom previously exercised in the regulation of their internal affairs, and the happiness and prosperity enjoyed under the old régime, had endeared the English Constitution to them. The many and strong ties of blood, language, religion, and common interest, bound them closely to the mother country. The troubles and oppression which gave rise to the war bore down upon them less as concrete realities than as violations of their abstract rights. Finally, the fear of interference in the regulation of their internal affairs by the representative body of the United Colonies, made them loathe to break away from the protecting arm of the English Constitution and plunge into the uncertainties of Colonial Federation while yet there remained the faintest hope of "a reconciliation on the firm ground of constitutional freedom." Consequently, Maryland held out to the end, and was one of the last of the colonies to declare its Independence.

For a long time, however, some of the clearest minded of its citizens had seen the inevitableness of the step. We are told that, "sometime after the commencement of hostilities, and a long time before the Declaration of Independence," at a dinner at the house of Charles Carroll, Barrister, and in the presence of the Governor, Thomas Johnson declared that "the first Hessian soldier that puts his foot on the American soil will absolve me from all allegiance to Great Britain!" and that Samuel Chase, at the same time and place, exclaimed, "By God! I am for declaring ourselves independent!"[1] Though these expressions may have been used on

[1] Quoted in Scharf's *Hist. of Md.*, II, 218, footnote.

the spur of the moment, there was back of them the more or less conscious conviction that Independence would be the inevitable outcome of the struggle.

For some time to come the mass of the people did not share these views. The instructions to their Congressional delegates in January, 1776, were explicit in directing them not to join in any such movement, and they were repeated by the Convention in May. But, by that time, the logic of events was plainly pointing in the direction of Independence. On May 15th, Virginia directed her delegates to declare in its favor in Congress. Massachusetts, Rhode Island and North Carolina had taken more or less similar steps and, now, on June 7th, the matter was debated in Congress and, after a few days, was postponed for three weeks to give the deputies who had been directed to oppose it time to consult their colonies. The Maryland delegates informed the Council of Safety of the fact, and asked them to call the Convention at the earliest possible moment, in order to get "the explicit sense of the Province on this point." They suggested also that the deputies collect the opinion of the people at large, in some way, before the meeting of the Convention. They themselves were plainly in favor of taking the decisive step. The Council had already called the Convention to meet on June 21st in order to consider the request of Congress to have the Maryland troops sent out of the Province,[1] not feeling possessed of the proper authority to give the order themselves. In communicating this fact to the delegates in Congress, they said it was now too late to make the necessary inquiry before the meeting of the Convention; and that, as they presumed, the first business of the Convention would be the regulation of the movement of the militia in accordance with the desire of Congress, the committees of observation could, if necessary, be directed to collect the sense of the people on Independence and report to the Convention. The Council was apparently not yet in favor

[1] Proceedings of the Council of Safety, June 10, 1776.

of it and was unwilling to take this responsibility upon themselves, as they suggested that, "any mode their representatives may think proper to point out would be better relished by the people, than for us to put them into a violent ferment in a way that might not be approved of." This was apparently not very satisfactory to their delegates in Congress, who were anxious to have the Convention remove their previous instructions and declare in favor of Independence. As soon as they could leave Congress, Matthew Tilghman, Thomas Johnson and Samuel Chase came down from Philadelphia and endeavored to rouse the people to give the necessary instructions to their deputies in the Convention. Under the pressure of events and the increasing sentiment in favor of the movement,[1] this was not very difficult. Several county meetings directed their deputies to rescind the former instructions and authorize the Congressional delegates to join with those of the other colonies in declaring Independence.

When the Convention met, therefore, on June 21, many of the deputies were prepared for the action about to be taken. Still, the energetic action of the leaders was necessary to bring over many of the halting moderates. Their first work was to write to Congress, requesting the leave of as many of their delegates as could be spared, and to desire that the questions of Independence, Federation and Foreign Alliance be postponed until their return, which was promised to be as soon as possible. Then, while awaiting their attendance, they gave their attention to minor matters.

In response to the Charles county meeting, they resolved to determine all questions in future by a majority of members, and not, as heretofore, by a majority of counties; they decided that the yeas and nays might be taken and entered whenever desired by any member, and they resolved to open their debates

[1] For the last six months, the leaders of the movement had been disseminating their views in papers and letters. See Stone's Letter to Jenifer, Correspondence of the Council of Safety, Md. Archives, April 24, 1776.

and proceedings to the public except in cases where it should be otherwise ordered. All these measures marked a great advance in parliamentary procedure, making the Convention more sensitive to, and a better register of, popular opinion.

They took another step in severing their relations to the Proprietary Government. The Governor had departed on June 24, and, on the next day, they ordered one of his last orders to be disobeyed. The Assembly had been prorogued, from time to time, since the Spring of 1774, and its legal existence had ended in the Autumn of 1775. To provide for a new Assembly, the Governor, shortly before his departure, had ordered writs to be issued in the Proprietor's name, providing for the election of delegates. The Convention now ordered the writs to be disregarded and no elections to be held. This was really the death-knell to the Proprietary Government. The departure of the Governor had been regarded as only temporary, but now the orders for constituting the proper legislative Assembly, under the old régime were disregarded, and it was henceforth plain that the break with it must be complete and a new government constituted by the authority of the people. Henceforth, all that remained of the Proprietary rule was the subordinate officers of the civil and judicial administration, and these continued to exercise their functions several months longer.

The Convention proceeded to consider the request of Congress to have them furnish troops to act with Pennsylvania and Delaware, and they agreed to furnish four battalions of militia, consisting in all of 3,405 men, under the command of a brigadier-general.

Finally, on June 28, the much desired withdrawal of the previous instructions and restrictions upon their delegates in Congress was resolved upon, and they were now directed to join with the delegates from the other colonies in declaring "the United Colonies free and independent States; in forming such further compact and confederation between them; in making foreign alliances, and in adopting such other measures

as shall be adjudged necessary for securing the liberties of America." They pledged the colony to hold itself bound by the resolutions of a majority of the United Colonies, "provided, the sole and exclusive right of regulating the internal government and police of this colony be reserved to the people thereof."[1] This was an actual declaration of Independence, but it was followed on July 3 by the formal document,[2] which stated the rights of the colonists, the infringements of the same, and their withdrawal of allegiance from the King of Great Britain, and declared their intention of entering into such further colonial union and foreign alliance as should be necessary, and their determination to form a new government to regulate the internal affairs and police of the colony.[3]

Independence having been declared, the next thing was to arrange for the formation of the new government. For this purpose, it was thought best to go to the people. Elections for deputies to a new convention, whose duty it should be to form the new government, were ordered to be held at certain specified places in each county, usually at the court-houses, on August 1. The qualifications for voters were fixed much as in former elections. "All freemen, above twenty-one years of age, being freeholders of not less than fifty acres of land, or having visible property in this colony to the value of £40 sterling, at the least," were to vote for deputies in the several counties and in the town of Baltimore. For Annapolis, any freeman could vote who was twenty-one years old, and who owned a whole lot of land there or had a visible estate of £20 sterling within the Province, or who had served five years in the city and was a housekeeper. In every case, the further requirements of one year's residence in the place where one should offer himself to vote, and freedom from the censure of

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[1] Proceedings of the Convention, June 28, 1776. [2] *Ibid.*, July 6, 1776.

[3] It is noteworthy that, from now on, the word "colony" is generally used where "province" had been formerly employed, indicating the end of its peculiar provincial existence and its sense of union with the other colonies.

the authorities for breaches of the Continental Resolves was necessary. Each county was to elect four delegates, Frederick being very large was allowed four from each of its districts. An innovation was now made in the representation of the people in that, for the first time, the town and city of Baltimore and Annapolis were classed by themselves, and each was allowed to return two delegates. The elections were to be free, and to be held in the usual *viva voce* manner. To this end, no one was to be allowed to go to the polls armed, no muster of the militia was to be made on the election day, nor were the soldiers to collect at the time and place of holding them, nor were any ten militia men to be allowed to vote successively if any one should object. Furthermore, no one holding a commission or office in the regular forces by land or by sea was to be eligible to become a representative, or to hold any place in the civil department, or to have a right to vote while holding such commission or office. Every regulation was made on the old basis of representation, together with the innovations in the cases of Baltimore and Annapolis, to ensure the people a free voice in the election of delegates to frame a new government. The authority of the people was recognized as the basis of this new Power, and everything was done to have a full and free representation of the people in the new Convention. The old principle of free property qualification for suffrage was, however, still adhered to as a characteristic of the age.

The civil officers whose commissions had issued from the Proprietary Governor were now exercising their functions only by sufferance, but, there being no convenient way as yet to replace them, the Convention authorized them, with the exception of the customs officers, to continue in office until the next Convention should replace them by functionaries with commissions from the new State Government. The Proprietary officers were thus allowed to continue[1] in the Colony even after the Declaration of Independence.

[1] Eddis and his colleague of the Loan Office continued to perform their duties until June 1, 1777. See Eddis' *Letters*, June 1, 1777.

Certain other matters of considerable importance were attended to by the Convention. The Statute of Treasons enacted under Edward III, fixing the trial of traitors before a petit jury with the penalty of death and the confiscation of property, was adopted as law. It was decided that counterfeiters and conscious passers of such money should suffer death without benefit of clergy. It was resolved that private debts contracted between September 10, 1775, and July 10, 1777, might be paid in country produce and manufactures. Other matters, such as ordering the advance of money to aid home manufacturers in the production of goods, orders to the Council of Safety to contract for arms and ammunition, and judgment on cases of appeal on the breaches of the Continental Resolves, were also attended to.

The action of the Convention on the resolutions of the Virginia Convention relative to the Eden affair is, however, particularly interesting as showing the determined opposition to all outside interference with their internal affairs. The Virginia Convention had, on May 31, directed a letter to be sent to the President of the Maryland Convention expressing their deep concern because Governor Eden had not been seized and their reasons for refusing to give him a passage through their Colony or the Bay adjoining.[1] The Maryland Convention now replied that the Virginia resolutions were hasty and betrayed a disposition to meddle in their affairs, that they had never interfered in the affairs of Virginia and that they could not believe that the Virginia Convention (as it said) thought they had promoted the Governor's passage "to assist in their [Virginia's] destruction under a pretence of his retiring to England." They said, further, that they were the only proper judges of the propriety of the act, and that, if the Virginia

[1] Virginia had insinuated that Eden's passage had been promoted "to assist in their destruction under a pretence of his retiring to England." It had appealed to the people of Maryland against the Convention, and it thus became necessary for the Convention to vindicate its proceedings.

Convention had had the evidence before them, they would not have been at a loss to know why the Maryland Convention acted as it did. The same spirit was manifest here as had been evidenced before in the action upon the directions of Congress to form a new government. Maryland was determined, at all costs, to resist all outside interference and to maintain the sole and absolute right to regulate its internal affairs.

Before adjourning on July 6, the Convention reappointed its delegates to Congress, replacing John Hall by Charles Carroll of Carrollton, and giving them as full and ample power to represent the Colony as any before had been given. They also reappointed the Council of Safety, with one exception, with power to serve until the end of the next Convention. Then, fixing the date for the meeting of the new Convention for August 12, and directing the Council of Safety to call a meeting of the present one if necessary before August 1, they adjourned, providing for their dissolution on August 1.

After declaring American Independence, Congress directed President Hancock to send a copy of the document to each of the Colonial Conventions, to the end that it might be by them proclaimed in the presence of the people. On July 11, the Council of Safety received the Declaration, together with a letter from the President, and it thereupon sent copies of them to the committee of each county requesting them to have the Declaration proclaimed in the manner they should judge most proper for the information of the people,[1] which was accordingly done with proper solemnity and festivity. On the meeting of the new Convention, the Council laid the document before that body, and, on this occasion, the sanction of the representative and authoritative body of the Colony was added to the previous approval of the people.[2]

When the Convention assembled on August 14, it was found that in several instances the regulations of the last Con-

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[1] Correspondence of the Council of Safety, July 16, 1776.

[2] Proceedings of the Convention, August 14, 1776.

vention fixing the qualifications of voters and the places for voting had been disregarded, and some irregularly elected deputies had been returned. The regulation excluding all those actually in the military service of the Colony from voting or becoming candidates for election, seems to have been the chief cause of trouble. In Queen Anne, Prince George, Worcester, and the lower districts of Frederick county, deputies had been appointed by the aid of the vote of the soldiery, and in Kent county, owing to the trouble growing out of the enforcement of this regulation, no election had been held.[1] In all these cases, the Convention upheld the regulations of its predecessor, declared all such elections null and void, and ordered new ones on the old basis.[2]

Before entering upon the all-important work before them, certain rules[3] regulating procedure and debate were agreed upon, which, from their simple, natural character, make one wonder why they had not been previously adopted. Consistently following the endeavor of previous Conventions, they were determined to keep the military from influencing the civil department of government, which they desired to be founded on the calm, sober judgment of the people, and they resolved that any member who should accept a commission in the flying camp, should vacate his seat in the house.[4]

They soon set themselves to their chief task, the formation of a new government. On August 17, they appointed a committee[5] of eminent men "to prepare a declaration and charter

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[1] In Charles county, though held partly at one place and partly at another, yet, because of the unanimous consent of the voters, they were allowed to stand.

[2] The personnel of the Convention was much changed. Out of a total of 76 members, the late elections had returned fully two-thirds of that number as new men. Council of Safety Correspondence, Letter to Md. Deputies, July 9, 1776. Proceedings of the Convention, Aug. 15, 1776.

[3] Proceedings of the Convention, Aug. 15, 1776. [4] *Ibid.*, Aug. 16, 1776.

[5] It consisted of Matthew Tilghman, Charles Carroll, Barrister, William Paca, Charles Carroll of Carrollton, George Plater, Samuel Chase, Robert Goldsborough. Thomas Johnson and R. T. Hooe were added on August 30.

of rights, and a plan of government agreeable to such rights as will best maintain peace and good order, and most effectually secure happiness and liberty to the people of this State." Ten days later, the committee reported a Declaration and Charter of Rights, and on September 10 presented a Constitution and Form of Government. These were read and laid on the table without discussion or consideration, owing to the necessary attendance of their delegates in Congress. On September 17, they ordered these documents to be printed for the consideration of the people at large, and twelve copies were directed to be sent to each county.[1] The Convention then adjourned for two weeks, to give the people time to acquaint themselves with the proposed instruments of the new State Government, and to give their delegates in Congress an opportunity to attend the Convention. After reassembling they took up the discussion of these documents, discussing them first in committee of the whole, then reporting them to the house, rediscussing them, paragraph by paragraph, and finally they were adopted, the Declaration of Rights on November 3, and the Constitution on November 8.

The time spent in deliberating on them was very short, in comparison with their importance. The committee which drew them up produced the Declaration in ten days, and the Constitution in about ten days more. Then they were laid on the table for a whole month, and after being taken up again, a month was given to discussing and agreeing to them, but of this time much was given to other business. Yet they both were able and epoch-making documents.[2]

The Declaration of Rights[3] asserted, first of all, the true origin and end of government as coming from the people and

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[1] Proceedings of the Convention, Sept. 17, 1776.

[2] It is interesting to note that no provision was made for a ratification of them by the people. The people were apparently regarded as sufficiently present in the Convention, and when adopted by it, these instruments were binding upon all.

[3] See Proceedings of the Convention, Nov. 3, 1776.

existing solely for their good. It next demanded for the people of Maryland the sole and exclusive right of regulating their internal government and police. For the freedom and protection of the citizen, it claimed the benefits of the Common Law of England, and repeated some of the provisions of the Great Charter providing for free, speedy and just trials by jury, and declaiming against *ex post facto* and attainder laws. The now somewhat famous aphorism that "public office is a public trust," was clearly enunciated in it, and the violation of it was made a justification for the overthrow of the old government. The principle of the three-fold division of the powers of government, then so enthusiastically believed in, was strongly emphasized, and made a corner-stone of the Constitution. Freedom of worship, freedom of the press, the evils of monopolies, of hereditary honors and titles of nobility, the elevation of the judiciary above the clamor of frequent and popular elections, the subjection of the military to the civil power, were some of the remaining assertions of this Declaration.

The Constitution[1] introduced several interesting innovations. Under the Proprietary Government, the Governor and his Council had acted as a second and Upper House of the Legislature; but it had never been elected by the people nor had it ever represented them. In its place, the new body of the Senate was put, with the peculiar condition that the Senators were to be elected not directly by the people, as in the other Colonies, but by electors who were chosen by the people. They could be taken all from one county, or from several, as the electors should see fit, except that nine must be taken from the Western and six from the Eastern Shore. This method of election produced in the Senate a different kind of authority from that of the Lower House, elected directly by the people. It produced a body of the best mature and able men, less

[1] See Proceedings of the Convention, Nov. 8, 1776.

affected by the hasty movements of popular opinion than the Delegates, and formed not another House of Delegates but a real check to the latter. So effective was it, that this plan was more or less followed in the formation of the United States Senate, and in the election of the President. The House of Delegates was but the continuation of the previous Lower House of the Assembly, unchanged, with the same equal representation of the counties as before. The property, age, and residence qualifications for suffrage were retained, with the reduction from £40 to £30 sterling, as the least amount of visible property giving one the right to vote. The military were carefully excluded from such privileges. Another important change was the taking away of the veto power on legislation hitherto held by the Governor. This was done probably, as McMahon points out,[1] because the Governor was not elected directly by the people as now, but by the joint ballot of both Houses of the Legislature, and to have given him the power to check legislation would not have been to introduce a new authority against theirs, but simply to provide for a further revision of their acts by a power of their own creation. To introduce the new Government, the Constitution provided for elections soon to be held for senatorial electors, who were to meet in the early part of December and elect fifteen senators. About the middle of December other elections were to be held for sheriffs and delegates, and the new General Assembly was directed to meet February 10 next, and organize and choose a Governor and his Council and the minor officers, and set the wheels of the new machinery in motion.

The time of the Convention was by no means wholly occupied in the drawing up of a Declaration of Rights and the adoption of the Constitution. Many other matters of importance came up for consideration and were attended to. It was necessary that the civil administration should continue in

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[1] McMahon's *Hist. of Md.*, p. 439 ff.

power until the inauguration of the new government, and the Convention therefore authorized the continuance in office of all the civil officers then in commission until others should be appointed and commissioned by the legislative and executive power of the State.[1] Certain other legislative and regulative measures were determined upon. The county courts were ordered to assess the county charges as usual. The justices of Baltimore county were directed to forbear to levy any further sum of money on the inhabitants for the purpose of repaying the money loaned the county for repairing roads.[2] The inhabitants of Talbot county, finding it difficult to pay, in the distress of the times, the annual installment of tobacco levied under the act of 1773 for the building of a county poor-house, the Convention absolved them from its payment and ordered the money already paid in to the county trustees to be expended on the poor.[3] It passed a resolution making inspected tobacco a legal tender, as before June 10, for all public dues.[4] Another resolution made all wills valid which had been made by young men, over sixteen years old, in the military service in case they should die in the service.[5] It ordered the repeal of the act of Assembly of December, 1773, for preserving the breed of wild deer, and the cessation of all prosecution for breaches of the act. Money being needed for the carrying on of defensive operations, it ordered the emission of bills of credit to the amount of 531,111⅓ dollars, to be redeemed on or before January 1, 1786. There was also the usual amount of executive and judicial business, and the election of a new Council of Safety which should see to the carrying out of its instructions. Delegates to Congress were also elected with powers "to concur with the other United States, or a majority of them, in forming a confederation, and in making foreign alliances, providing that such confederation, when formed, be not bind-

[1] Proceedings of the Conventions, November 4, 1776.
[2] Proceedings of the Conventions, September 13, 1776.
[3] Proceedings of the Conventions, September 14, 1776.
[4] *Ibid.*, October 4, 1776.
[5] *Ibid.*, October 26, 1776.

ing upon this State without the assent of the General Assembly . . . reserving always to this State the sole and exclusive right of regulating the internal police thereof." Moreover, even at that late day, the peace party gained such prominence as to cause the delegates to be further "authorized and empowered, notwithstanding any measures heretofore taken, to concur with the Congress, or a majority of them, in accommodating our unhappy differences with Great Britain, on such terms as the Congress, or a majority of them, shall think proper."[1] These extensive powers caused considerable uneasiness among the patriots in Congress as being likely to hinder the common cause and a foreign alliance; so much so that Samuel Chase, in a letter to the Council of Safety, expressed his hope that they might be kept unpublished.[2]

The Convention took upon itself the authority to erect two new counties. Frederick county being very large, both in extent and population, it was decided to form of its Upper and Lower Districts the two new counties of Washington and Montgomery, respectively, naming them after the General who had fallen before Quebec and the Commander-in-chief. Arrangements were accordingly made for the determining of a county-seat in each by a popular election, and for the separation of the courts, and commissioners were appointed to superintend the building of a court-house and jail in each.[3]

Another matter of very great importance demanded a great deal of attention. The first purpose in calling the Convention was to meet the demands of Congress to have troops sent northwards, and one of its first acts was to accede to that request and direct the troops accordingly. Maryland had always responded cheerfully and speedily to the call for troops and now sent forward about four thousand.[4] On September

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[1] Proceedings of the Conventions, November 10, 1776.
[2] Correspondence of the Council of Safety, November 23, 1776.
[3] Proceedings of the Convention, September 6, 1776.
[4] Correspondence of the Council of Safety, August 16, 1776.

16, Congress made another call for eight battalions from Maryland to be enlisted to serve during the war, and, as an inducement to enlist for this term, it resolved to give each non-commissioned officer and soldier a bounty of twenty dollars and a hundred acres of land to be furnished at the expense of the United States.[1] This requisition was by no means agreeable to the people of Maryland. The Convention considered the matter on October 19, after reassembling, and came to the conclusion that the call of Congress for eight battalions from Maryland exceeded its proper proportion. It presumed that, in calling for so large a number, the requisition had been made on the basis of all the inhabitants of the Colony, white and black, whereas it judged that it ought to be made on the basis of the white population only. But yet, being "desirous of exerting the most strenuous efforts to support the liberties and independence of the United States," it concluded to "use its utmost endeavours to raise the eight battalions required (including the troops already raised and in the service of the United States) as soon as possible." To the bounty of twenty dollars proposed to be given to each non-commissioned officer and soldier, it had nothing to say, but it was not willing to accede to the proposition of Congress to give them an additional bounty of a hundred acres of land, in the first place because the State had no lands belonging solely and exclusively to it which it might use for this purpose, and, further, because it feared that the purchase of such lands, especially on the basis of its whole population, on which the levies had been made, would involve it in ruin.[2] In lieu, therefore, of the hundred acres of land, it offered to give the further bounty of ten dollars,[3] a generous offer, since it was

[1] Journals of Congress, September 16, 1776.

[2] Proceedings of the Convention, October 9, 1776.

[3] The people felt that the back-lands which Congress proposed to use for the purpose of furnishing the land bounty ought to be the joint property of all the States, since they had been conquered by the joint expense and treasure of all. Fearing the claims of some of the States to these lands,

something more than the price of the land proposed to be given by Congress. On this basis, then, it agreed to carry out the request of Congress; it appointed four commisssioners to go to the camps of the troops in New Jersey and re-enlist all they could get to serve for the term of the war on this double bounty, and it made provision for enlisting the remainder in in the Colony on the same terms and for thus filling up the desired quota.[1]

It hoped and presumed that these arrangements would prove satisfactory but they really stirred up a hornet's nest. The Commissioners, on their arrival in Philadelphia, laid the Resolves of the Convention before Congress, and soon after were informed that the proposed substitution of ten dollars instead of the 100 acres of land would prove extremely prejudicial and detrimental to the United States, as all the soldiers and officers would demand the same bounty and compel the Congress to the payment of an additional bounty greater than could be borne. They were told that land could be bought at three dollars per hundred acres, and that the soldiery had already extorted greater wages than could be endured, and they were asked whether they would re-enlist the troops simply on the twenty dollar bounty without promising the additional ten dollars. Similar sentiments were embodied in the resolutions of Congress of October 30 addressed to the Convention of Maryland. The Convention was asked to reconsider its resolutions and direct the commissioners to proceed to execute the views of Congress. The members of Congress were extremely annoyed at the refusal of the Maryland Convention to accede to their proposal granting a bounty in lands,

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they thought the plan of Congress would cause them to obligate themselves to purchase their share of them of a few venders who might ask what they pleased and thus ruin the State. They, therefore, preferred to obviate all this difficulty by the generous offer of a cash-down bounty of ten dollars. Correspondence of the Council of Safety, Letter of B. Rumsey to J. Tilghman, October 24, 1776, and to Jenifer, November 24, 1776.

[1] Proceedings of the Convention, October 9, 1776.

and they intimated to the commissioners that a disposition to separate from the United States was apparent in the Convention's resolves. In their resolution of October 30, Congress said that, "being satisfied with the propriety of offering land to the soldiery, as an inducement to enlist in the service, they cannot rescind the said resolution; and are of opinion, that the faith, which this House, by virtue of the power with which they were vested, has plighted, must be obligatory on their constituents; that no one State can, by its own act, be released therefrom, and that the interest of the United States would be deeply and injuriously affected, should the Congress, at this time, consent to a compromise between any State and the forces to be by them raised."[1]

To this, the Convention on November 9 made a firm but respectful reply, that they were very sorry that the least difference of opinion should have arisen between them and Congress, that they had, as requested, reconsidered their former resolutions and now offered three conditions, as follows, that Congress should specify any lands, belonging to the United States, which would be used as a common stock to be divided among the soldiery in their service, in which case the commissioners were to endeavor to re-enlist the troops to serve on that basis during the war, or, if it will not specify such lands, and will permit the enlistment of the Maryland troops on the basis of the former resolutions, that is, of ten dollars bounty instead of 100 acres of land, that, then, the commissioners proceed with their duty, or, if it will do neither of these two things, that, in that case, the commissioners endeavor to enlist the men on the bounty of twenty dollars allowed by Congress, but not to engage the faith of the State to give or make good any bounty of lands. They again stated clearly the reasons for their action, namely, that, as they had no lands of their own, they would be obliged to purchase their portion from the other States at exorbitant prices. They clearly enunciated

[1] Journals of Congress, October 30, 1776.

their views as to the ownership of the back lands, a question upon which[1] they had already spoken in connection with the consideration of the Virginia constitution, and which now assumed especial importance in connection with this question of land bounty, and which was to become of still greater importance in future years and form the chief obstacle to formally entering the Confederation. They maintained that what had been "secured by the blood and treasure of all, ought in reason, justice, and policy, to be considered as a common stock, to be parcelled out by Congress into free, convenient, and independent governments, as the wisdom of that body shall direct; but, if those (the only lands as this Convention apprehend that can) should be provided by Congress at the expense of the United States to make good the proffered bounties, every idea of their being a common stock must be given up."[2] In reply to the charge of showing a disposition to disunion, they expressed "a strong disinclination to go into any discussion of the powers with which Congress is invested, being fully sensible that the general interest will not be promoted by either the Congress affirming, on this Convention denying the existence of a fullness of power in that honourable body; the best and only proper exercise of which can be in adopting the wisest measures for equally securing the rights and liberties of each of the United States, which was the principle of their union."[3] Congress replied, by a resolution on November 12, that troops might be enlisted for three years on the twenty dollars bounty, or for the term of the war on the additional bounty of the 100 acres of land, and that, for this purpose, two sets of enlisting rolls be kept. The Council of Safety, after the adjournment of the Convention, directed the commissioners to enlist the troops on the three-year basis, with the understanding that, at the expiration of that term,

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[1] Proceedings of the Convention, October 30, 1776.
[2] Proceedings of the Convention, November 9, 1776.
[3] *Ibid.*, November 9, 1776.

they would be in the service of the State; and they took occasion to pronounce against the implication that Maryland would have "to contribute her proportion of the expense attending the procuring of lands for the officers and soldiers furnished by the other States for the war."[1] Samuel Chase and the other delegates to Congress did all they could to get that body to give the State "some satisfaction as to the back lands, and the mode by which the proportion of the expenses of the war was to be paid by each State," with the result of securing a resolution from Congress on November 23, declaring that nothing hitherto done was to prejudice or strengthen the right or claim of the United States, or of any of them, to any lands in America, nor to determine in what proportion or manner the expenses of the war shall be raised or adjusted," with certain exceptions.

Thus ended the controversy over the giving of lands as bounty to soldiers serving for the war. It gave rise to the greater controversy over the ownership of the back lands, and the present ending of it simply relegated it unsettled to the consideration of a future Congress. The position taken by Maryland was admirable in the calm assertion of its individual rights, and in its insistence on a larger-minded treatment of a question that some of the States wished to dispose of in the light of selfish interests. Maryland's battle over this cause was only begun, but the justice and persistence of her contention bore in them the presage of victory.

Complete and final arrangements had now been made for the formation of the new government, and the last of the Conventions handed over the execution of its resolves to the newly reëlected Council of Safety. The people were, however, in some places "very backward in carrying the new government into execution,"[2] and it was some time before the new committees of observation and the senatorial electors were chosen.

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[1] Correspondence of the Council of Safety, November 21, 1776.

[2] Correspondence of the Council of Safety, Nov. 29, 1776.

In several counties of the Eastern Shore, mobs created considerable disturbance, owing to the great scarcity of salt.[1] In Baltimore, certain over-zealous patriots, known as the Whig Club, caused much trouble by assuming the authority of government and issuing threats to certain less zealous citizens, urging their departure from the Colony. They even drove the Sheriff out of the Town, and prevented him from collecting the county levies.[2] Their example was followed in Annapolis by sundry persons ordering others to depart the city by the next morning.[3] The Council of Safety did its best to quell all this and to maintain order. Meanwhile the elections took place, and, in response to the call of the Council of Safety, the Delegates and Senators assembled at Annapolis as the new General Assembly on February 5, five days before the time set by the Convention, owing to the riotous and extra-judicial proceedings of some and the disaffection of others.[4] On February 13, Thomas Johnson was chosen Governor, and on the next day his Council was elected. On March 21, his inauguration took place with proper solemnity and festivity. The new government was now fairly started, and soon the civil officers of the old régime were superseded by those commissioned by the new Authority.[5] The Council of Safety disbanded on the Governor's inauguration.

The history of the Provisional Government has now been traced, in its general outlines, from its germ in the non-importation agreements of 1773 and 1774 through its gradual exercise and assertion of sovereign authority until it found itself the only power in the Colony. It has been seen to pass through three more or less distinct stages, beginning, in the first, in the commercial resistance of the people to the aggressions on their rights and liberties, and rising to the power of

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[1] Journal and Correspondence of the Council of Safety, Nov. 18, 21, Dec. 30, 1776.

[2] *Ibid.*, Dec. 10, 13, and 17, 1776.

[3] Journal of Council of Safety, Dec. 23, 1776.

[4] *Ibid.*, Jan. 18, 1777.

[5] Eddis' *Letters*, April 2, 1777.

armed opposition, taking the sword out of the Governor's hands and asserting itself as a second Power in the Province. In the second stage, it organized itself more fully, and gradually grew until it completely overshadowed the Proprietary Authority, and, in the third, it cut the Gordian-knot, declared the Colony's independence, broke all connection with the Proprietary, and ended in the setting up of a new State Government. In all this time—a period of nearly three years—it had pursued no other policy than the calm, consistent defense of the people's rights. It did not want to do anything more than maintain these rights, and the forcing upon it of the ultimate consequences was only the result of circumstances. But, under the pressure of those circumstances, it nobly showed itself equal to its task and started forward the Government which, with some alterations, has worked smoothly for more than a century. During its continuance, its actions were marked by calm good sense and sober judgment.[1] Drawing its authority directly from the people, it ever kept close to the source of its power, and, though the spirit of the age was far less democratic than that of ours, it was always true to the voice of its constituents. In comparison with the character and development of other such transitional periods in the history of Government, its history may well be a matter of pride to every loyal Marylander.

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[1] "Such an administration, the immediate offspring of necessity, might have been reasonably expected to be subversive of that liberty which it was intended to secure. But in the course of more than two years, during which it was cheerfully submitted to by all, except the advocates for British usurpation, although many occasions occurred in which an intemperate zeal transported men beyond the just bounds of moderation, not a single person fell a victim to the oppression of this irregular government. The truth is that, during the whole memorable interval, between the fall of the old, and the institution of the new, form of government, there appeared to exist amongst us such a fund of public virtue as has scarcely a parallel in the annals of the world." Chancellor Hanson's introduction to the proceedings and resolves of the Convention which framed the Constitution.

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